the testator had no general knowledge of the value or extent of his estate, or no appreciation of who were his wife and children, as well as where the testator lacked sufficient mind and memory to understand the contents of his will and the business in which he was engaged, and to keep all this in mind long enough to have the instrument properly drawn and executed. It might illustrate, too, the rather frequent condition where a testator had no mind or memory sufficient to understand the ordinary business affairs of life. The interesting point involved, however, is the effect of the religious belief testator held upon the instrument purporting to be his will. Where mental derangement is manifest there will always be found some discord in the decisions of the courts. Each case must necessarily stand alone, and there cannot be said to be an infallible test by which a correct conclusion may always be reached. There is undoubtedly a degree of extravagance in conduct and belief so extreme as to be unaccounted for on any other ground than insanity, and the instant case serves to present such extreme manifestations of unusual thought, conduct and belief as to warrant no other rational conclusion than that testator was insane upon religion. Monomania does not necessarily invalidate a will, but when it pertains to the property, the beneficiaries, or those who would succeed to the property if there were no will, the writing must be set aside. ROOD, WILLS, § 135 and note, where cases of monomania *not* destructive of testamentary capacity are collected. The testator's delusions in the principal case obviously affected all three of these, his property, the beneficiaries, and those who would take in the absence of a will. The Court refers to but few authorities in support of its findings, a fact which should in nowise impeach the wisdom of the decision reached. Mr. Rood presents an excellent statement of the subject of deranged mental action as affecting testamentary capacity in his work on Wills, §§ 115-137, where the leading cases up to 1904 are reviewed. There are extended notes on the subject of insane delusions in 63 Am. St. Rep. 80-108; 37 L. R. A. 261-283; 5 Probate Rep. Ann. 224-228. For cases similar to the principal case, and in accord with it, where wills were set aside because of a delusion that the Lord and a deceased husband had commanded the testator and testatrix respectively to make the wills in question and directing the disposition to be made thereby, see *Taylor* v. *Trich*, 165 Pa. 586, 30 Atl. 1053, 44 Am. St. Rep. 679; *Robinson* v. *Adams*, 62 Me. 369, REDFIELD CAS. 367.

WILLS—VALIDITY OF GIFTS—STATUTORY CONSTRUCTION.—Testator died in 1881, leaving him surviving a wife, who died in 1883, and a son, who died in 1905. The estate consisted of personalty, which, after allowing for shrinkage and deducting debts, expenses, specific legacies and commissions, amounted to something over $80,000. After the said specific legacies the residue was given to his said wife and son to enjoy the use and income thereof for their joint lives and the life of the survivor of them. Upon the deaths of his wife and his son without descendants (and the son died without descendants) the said residue was given to the trustees of a university to be held in perpetuity for certain specified purposes. A statute of New York (Laws of 1860, p. 607, Chap. 360) provides that "no person having a * * wife, child * * , shall, by his * * last will and testament, devise or bequeath

to any * * * society, association or corporation, in trust or otherwise, more than one-half part of his * * estate, after the payment of his * * debts (and such devise or bequest shall be valid to the extent of one-half and no more)." *Held,* that the provisions of the testator's will do not violate the statute, for the court must take the amount or value of the testator's estate as of the date of his death and compute the present value of the life estate of wife and son, such computation to be made by the use of mortality tables based on the possibilities of life, rather than on the lives of the wife and son as they were actually extended, and by such computation the provision in favor of the Trustees gives them less than one-half of said estate. *In re Durand et al.* (1909), — N. Y. —, 87 N. E. 677.

Apparently the Act involved in the adjudication of this case is peculiar to New York, though California and Missouri have similar statutes. The policy of the statute involved in the principal case is of no concern in this comment. The manner in which the value of the respective interests of the legatees is computed, however, is extremely artificial, and it is this fact that induces a consideration of this decision. The New York reports indicate that the Act of 1860, supra, has been a difficult one to construe, if we may judge from the number of the decided cases. Many of these cases, however, present questions so different, or the same question in so different a manner, as to make them of little or no value in an examination of the principal case. The Court bases its decision upon the authority of *Hollis* v. *Drew Theological Seminary,* 95 N. Y. 166. But in *Hollis* v. *the Seminary,* there was a neccessity for recourse to the mortality tables in determining the value of the life estates there considered. In the principal case no such necessity exists. Both wife and son have died and the exact value of their life estates is ascertainable. Indeed, in *Hollis* v. *the Seminary,* the method employed of valuing the life estates (which was the same method employed in the principal case) was objected to because of uncertainty. The Court admitted the validity of this objection in these words: "It may be said that in all these calculations there is an element of uncertainty, as the duration of lives cannot be accurately ascertained," but justified this method because of necessity. When there is no need of reliance upon an uncertain method of valuation why employ it? It may be that there are other facts which do not appear of record in the principal case that were the means of inducing the Court to adopt the method it did. This recent New York case of *In re Runk* (1907), 106 N. Y. Supp. 851, 55 Misc. Rep. 478, while it is the decision of a lower court, is worthy of notice in this connection. It was there held, on the settlement of an executor's account, after the death of the life tenant (the testator's wife), that the value of the life estate should be determined in order to ascertain whether the gifts to charitable institutions exceeded the statutory one-half (Act of 1860, supra) by the actual duration of the life estate, and not on the basis of the probabilities of its duration at the time of the testator's death. Reason and sound sense lead to an acceptance of the methods employed in the case of *In re Runk* rather than those employed in this more recent decision of the New York courts. See also, *Matter of Teed,* 59 Hun 63, 12 N. Y. Supp. 642.